

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DONALD P. BROWN, SR.,
Plaintiff

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CIVIL ACTION

NO. 09-2909

ERIC COHEN, et al,
Defendants

ORDER

AND NOW, this 25th day of May, 2011, after de novo review of plaintiff's complaint, and upon careful consideration of the Report and Recommendation of United States Magistrate Judge Linda K. Caracappa (Document No. 35), to which no objections were filed, IT IS HEREBY ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED as follows:
 - a. All counts against Defendant City of Philadelphia Police Department are DISMISSED. Plaintiff is granted leave to amend his complaint to add the City of Philadelphia as a defendant and to assert claims against the City of Philadelphia only as set forth in Count II of the complaint. Plaintiff shall file any amended complaint within 30 days of the date of this order or waive his right to so amend.
 - b. The following Counts against Defendants Cohen and Miller shall PROCEED: Count I asserting a violation of 42 U.S.C. § 1983 only insofar as it alleges a violation of the Fourth Amendment for false arrest and false imprisonment; a violation of the Fourth Amendment for excessive use of force; and a violation of the Fourteenth Amendment for recklessly

disregarding the plaintiff's need for medical treatment; and Count III asserting state law claims for false imprisonment, false arrest, malicious prosecution, and assault and battery.

- c. The following Count against Defendants Cohen and Miller shall be DISMISSED: Count II.
- d. All counts against Defendant Albert Einstein Medical Center are DISMISSED.

- 2. The Clerk of Court is directed to remove this case from civil suspense.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.